

EXHIBIT KK

Declaration of Timothy Oey
In Support of Plaintiff's Motion for Summary Adjudication
FreecycleSunnyvale v. The Freecycle Network
Case No. C06-00324 CW (filed Jan. 18, 2006)



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Important: Please read all instructions thoroughly!

Step:

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1. Look for an existing Freecycle™ group

Is there already a group for your city or county? If there is, it, of course, has priority. Click on your region below and make sure your area doesn't already have a group.

Alabama
Alaska
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
District of Columbia
Florida
Georgia
Hawaii
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Carolina
North Dakota
Ohio
Oklahoma
Oregon
Pennsylvania
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Washington
West Virginia
Wisconsin
Wyoming

Are you for some reason still interested in setting up a group even though there is a similar group in your area? Then you need to get the approval of the existing group moderator/owner first. You can find the owner's email address on their Yahoo group web page at the bottom center. We can't approve a potentially overlapping group without the consent of the existing group's owner. **No exceptions.**

[Go to Step 2](#)

Please note that use of the materials provided to you in this process (including files, emails, and the Freecycle™ logo and name) is reserved for approved Freecycle groups. You may use them freely while involved in the approval process, but if you are notified that your group has not been approved, please note that the name Freecycle, any variation thereof, and any materials made available to you on this site or in this process (whether used verbatim or altered) must be

removed from your group immediately (or your group must be deleted immediately). Thank you.

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Staff

It is with great pride and with many, many thanks that we acknowledge the thousands of volunteer moderators worldwide. Each local group generally has two to six local moderators who, in turn, are helping over a million members to keep good stuff out of landfills and to develop stronger community ties.

Some 80 of these moderators volunteer further time to approve new groups for their state, province or country. In addition, there's a committed crew of some 25-30 moderators putting in countless hours for Group Outreach and Assistance, helping existing groups with day-to-day problems. Another 3-4 people take care of info@freecycle.org questions, 4-5 lead the worldwide moderator group called the ModSquad. (There are also a couple of ad hoc committees set up to deal with issues at hand.) There are a few more volunteers who help administer the Web site and our extensive database.

Wow! Hats off to all these wonderful people!!

The founder & Executive Director is Deron Beal. Clocking in at 6'6", he heads up the Freecycle basketball team and is a sucker for black & white cats. He is blessed to be able to work with all these good people from his base at the Freecycle HQ -which looks more like a guest bedroom to me, but so be it -- in Tucson, Arizona.

Helping Deron is Stephanie, the Hub Coordinator. She works with all the team leaders of the various areas to keep things a tickin'. Check out our pretty diagram on the hub and the teams under "About Us" as well. Stephanie loves dabbling in painting and altered arts, in what little spare time she has, heh heh. We hear she is quite crafty. She works to be mindful and present in each moment. She is dedicated to cats, kids, the environment, and collecting as many scraps of paper as she can to form images she likes to call art.

Emily heads up the Trademark Team, which creates custom logos for groups, assists groups in using the mark correctly, works to educate the press about proper use of the mark, and pursues infringement. Any questions about the tm or for help making your group trademark-compliant, please email tmsupport@freecycle.org (squish it). Unlike Deron, Emily is not freakishly tall, is proud to be a geek on the East coast who loves green things and bad movies. Emily is also a sexuality counselor which is a really neat thing to help people with.

All moderators of Freecycle groups, world-wide, are invited to join the Mod Squad discussion group. Moderation and facilitation of the group is led by Deb, Mod Squad Coordinator, diplomat, and kind-hearted soul.

The Group Outreach & Assistance (GOA) team is available to help support all moderators.

In each American state, Canadian province, and country world-wide there is a New Group Approver. The NGAs evaluate the need for, assist and approve new Freecycle groups. Amanda is the point person for all NGAs and leads the NGA discussion group, as the NGA Coordinator. During her last pregnancy, it also became apparent that she is the cutest prego on wheels, EVER.

The Tech Team maintains the web site and manages the database. Dean (with Jeff, see below) is the Tech Team Coordinator, and he handles database changes and oversees development and maintenance. He is one of the hippest geeks we've ever met.

The Interim Moderation team is comprised of volunteer moderators who stand in when a local moderator steps down. Robin, I-Mod Coordinator, leads the team, which then seeks new local moderators over time and trains them to take over the groups. Robin is one of those bionic types who seems to manage way more than a normal load and makes it look easy - she's truly a force of nature!

The Back Office, with Amy leading the way as Back Office Coordinator, receives all emails sent to info@freecycle.org and handles administration for the Network. Amy is on the front lines, which makes us all proud to get behind her!

And, finally there is Jeff Davis, a true giant of a man & the local host of all sites nonprofit and beautiful, who created, and now runs, the Freecycle Web site, and has done all the site's coding. He's a true blessing. He practices what he preaches & doesn't even *own* a car, let alone drive. He is also the loving father of a Sonoran box turtle (you may see him around town chasing down beetles for his little one)...

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Tim Oey, 8/18/05 11:36 PM -0700, [freecyclemodsquad] Civil disobedience...

1

To: freecyclemodsquad@yahoogroups.com
From: Tim Oey <timoe@yaho.com>
Date: Thu, 18 Aug 2005 23:36:40 -0700
Subject: [freecyclemodsquad] Civil disobedience...

Hi all,

First my sincere apologies! I have had a significant role in a number of Freecycle directions that I now see are leading freecycle down a path that is not quite right.

Which directions were those?

Ersatzfriend (came partly out of my efforts to see that groups have backup owners/moderators -- one of my bicycling friends was killed by a drunk driver -- leaving his popular and well run bicyclingadvocacy group hanging without an owner -- it took Herculean efforts to get Yahoo to create a new owner for that group)

Freecycle trademark (Freecycle wanted to protect it -- so I contributed considerable energy and expertise, I was the main original author behind the current trademark guidelines)

Freecyclenext (Many could see that a much better system was possible, I'm a software developer, so I helped lead the charge)

I see two reasonable paths for Freecycle.

One is the traditional corporate style path that requires trademarks, money, lawyers, money, insurance, money, and strong controls. Trademarks are expensive. 24x7 systems supporting millions of users around the world are expensive. Lawyers are expensive. Insurance is expensive. But if you start raising enough money to support all of these, you become a target and need lawyers and insurance, etc. It's quite a treadmill.

The second less traveled path is one where freecycle goes back to its roots, lets go, and becomes, again, a true, open, grassroots movement. Some optional, helpful guidelines, but no absolute rules and no one telling anyone else what to do. This may not perfectly fit anyone's ideal dream. But it may just be good enough and much less resource intensive.

Here is my alternate vision for freecycle:

- 1) Allow ersatzfriend to be optional for those who do not otherwise have anyone else they can trust to be a backup owner. If a group has a 2nd backup owner then great -- that's super! If they choose not to have a backup owner, oh well, they are setting up their community for possible outages but they are adults and can take responsibility for this.
- 2) Abandon the Freecycle trademark pursuit and let all freecyclers do as much freecyclin' as they please. This will force the term into the public domain such that no one can trademark it. This action would be very natural, it would be free, it would be fun, and all freecyclers everywhere would help enforce it. Furthermore it fits well with a "viral" marketing approach to freecycle. People hear about it and want to know where it came from -- which will lead back to The Freecycle Network without strong trademark enforcement. It will also generate lots of goodwill.
- 3) Abandon the effort to create a new freecycle system. A big industrial company like Yahoo has trouble enough keeping its servers stable and running. Having freecycle create such a system puts a considerable burden on it and also introduces a significant single point of failure -- if the freecycle system goes down, all freecycling on it stops. Yahoo Groups has gotten freecycle very far so it obviously works. It may not be perfect but it seems to be good enough (like VHS, qwerty keyboards, Microsoft, and tons of other examples).
- 4) Do maintain the trademark on the full name "The Freecycle Network" (this should be fairly easy) and do take credit for birthing freecycle.

Printed for Tim Oey <oey@post.harvard.edu>

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Tim Oey, 8/18/05 11:36 PM -0700, [freecyclemodsquad] Civil disobedience...

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5) Do have The Freecycle Network become a 501(c)3 nonprofit and allow individuals and corporations to make donations to support the gentle expansion of freecycle -- enough to keep Deron and a few others gainfully employed -- and freecycle.org up -- but not enough to make it a target for those who might want to sue to win money. After all, freecycling is an open movement -- it's like trying to sue the weeds that grow in the wild.

6) Drop strong enforcement of many things so that GOAs won't seem to be like police to some or enforcers to others but a genuine helpful set of people that may be able to come in and help a moderator out with their group -- make being a GOA easy and fun.

7) Welcome back all the freeshare and splinter groups and allow them to use the freecycle term freely. Plus most of the people who have left including Nancy, Linnie, Judy, Deanna, Pastor Ken, and others are very good, thoughtful people.

8) Do keep a freecycle directory on freecycle.org but make the only requirements to be listed be:
 - everything offered on such groups must free
 - exchanges keeps stuff out of landfills
 - centered on a single geographical location.

Everything is free is freecycle's major attraction. Let members report groups where the moderator has disappeared or is allowing selling/trading/spamming (non-freecycle stuff) to go on. Let members vote with their feet as they choose which group they wish to belong to. No group would own a territorial lock on any region -- rather they would win and keep members by serving them better than their competition. Have all groups establish a geographical center point so it is clear to everyone where that group is located. This will naturally cause groups to stay smaller. Most Freecycle guidelines would basically stay as is. It can be at group discretion how tightly they are enforced -- do they want to attract or repel members?

9) Make the NGA job fun and easy. Allow NGAs discretion to tune their areas where they see obvious needs for more groups (high population areas). The goal of NGAs is to see that there are as many successful groups in their area as possible -- they don't want just a few monster groups -- they also don't want millions of teeny groups that can't get enough critical mass to be effective.

10) In general make all freecycle volunteer roles fun and easy (not work!).

11) Make the organization very transparent and easy to understand so that everyone can know what's going on. Document everything publicly.

12) Give moderators a more direct voice in the future of freecycle. Establish a mechanism so that all moderators who choose to vote, can vote on changes and directions for freecycle. Having a discussion group focused on The Freecycle Network organization is critical to this. Moderators of this group could run it more like a "meeting" -- where there is a bit of process to introduce a topic, that one topic is discussed and debated until some options emerge, and then it is voted on. Decisions that are made in the past can be re-visited -- it is ok to change as we grow, no need to be stuck with past mistakes. The Freecycle Network then has a good way to perpetuate itself as a system.

There are undoubtedly a number of other fine additions and refinements to my suggestions above -- the overall goal should be to make freecycling light, easy, self-sustaining, resource efficient, and fun for everyone!!! If it's causing lots of stress, something is going wrong.

Like my Ben & Jerry's bicycling jersey says "If it's not fun, why do it?"

Sincerely,
 Tim Oey
 Reduce_Reuse_Recycle
 Former California NGA
 Current Sunnyvale CA co-owner

----- Yahoo! Groups Sponsor ----->
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freecyclederon, 9/9/05 10:40 AM -0700, [freecyclemodsquad] ADMIN: Wow, great vote, fol

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To: freecyclemodsquad@yahoo.com
 From: "freecyclederon" <deron@freecycle.org>
 Date: Fri, 09 Sep 2005 17:40:11 -0000
 Subject: [freecyclemodsquad] ADMIN: Wow, great vote, folks!

Hey all,

I am glad and relieved to see that 762 of you all voted! Wow! Our last poll, just a couple weeks back had about 300 voters. That poll had doubled our highest ever turnout and this one more than doubled that one. This is really great. It means you all care and you have an opinion to voice. Thank you, thank you, thank you.

I am also glad to say that there was a span between the yeas and nays of about one hundred votes or 56% vs 43% so the final decision has a clear mandate for moving forward. I always fear a poll being 49% to 51% and having half the mods being bummed. So, a hundred vote margin on this says we have spoken and we know what we want.

So based on the poll, here's the direct new guideline:

"Ersatzfreund@freecycle.org (EF) is not required as co-owner but rather the local co-owner may decide if they would like it as a backup co-owner or not. As long as the local owner has a backup local co-owner, the *need* for EF is not there as a backup (Of course, if you don't use ersatzfreund as the backup co-owner it is strongly encouraged that local moderator have a backup co-owner of their own who doesn't live in the same household)."

I think that this wonderfully meets the concens of any mods about having an "unknown" co-owner while allowing those mods who believe in opening up and letting go of ownership with the overall organization to do so. And for those with no philosophical inclinations whatsoever, they are simply able to have a backup co-owner with EF if they choose in case they get shut out locally by Yahoo, etc. As one mod put it, choice is good and more choice is better.

SEPARATE FROM THE POLL (read on only if you are interested in how replacement groups work):

Separate from the poll, but as a result of this discussion process, the Interim Moderation Team (IMod) reevaluated their policy for replacement groups. The IMod team is called on when a local mods steps down and there is no new local mod or when setting up a replacement group for deleted groups or for groups that have been removed from the network.

From now on, for a replacement group or headless group, there will be two co-owners set up: EF and an interim moderator. This will enable us to have a backup owner with EF and the active IMod co-owner moderating the group while seeking a new local moderator to take over.

After a period of at least three months after finding a new local moderator, when the interim moderator and the local moderator are both ready, the interim moderator will remove him/herself as co-owner and promote the new local mod to co-owner. If the local co-owner wishes to keep EF as the backup co-owner at that time, it is the new local co-owner's business alone to decide this, just as with other groups as voted on in the poll above. If you are currently the moderator of a replacement group, no doubt the interim moderator will be working with you over the coming months to get you switched over: please don't besiege the poor interim mods at once now with requests. They are volunteers just like yourself, working their heinies off right now.

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freecyclederon, 9/9/05 10:40 AM -0700, [freecyclemodsquad] ADMIN: Wow, great vote, fol

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Well, hmm, that's about it. Thanks for helping us move forward and for making your voice heard.

Grassroots movements are not always easy to keep together and there's a fine balancing act we must always attempt in having basic guidelines for all vs. empowering as much as possible locally. I think we are all doing a darned good job of working together and balancing a lot of plates in the air as well as an occasional flaming torch....

Thanks all, and a happy weekend to you...

Deron

----- Yahoo! Groups Sponsor ----->
Help save the life of a child. Support St. Jude Children's Research Hospital.
<http://us.click.yahoo.com/onslpC/lbOLAA/E2hLAA/rcTolB/TM>
-----~>

Please remember to trim your posts when responding to messages posted on the site. Thank You.

Report news articles: newswire@freecycle.org
Submit to the FC mods newsletter: deb@freecycle.org
Contact your GOA: http://freecycle.org/faq_mod.php

Modsquad Moderators
Beverly/bevcn23, Deb/debsawyers, or Irene/teddybearsmother
We can be reached at freecyclemodsquad-owner@yahoogroups.com

Moderators desiring to increase their involvement with TFN beyond the local level are encouraged to write to volunteers@freecycle.org to offer their services. Please give us an idea of your skills and how you'd like to help.

Freecycle and the Freecycle logo are trademarks of The Freecycle Network in the United States and/or other countries.

Yahoo! Groups Links

- <*> To visit your group on the web, go to:
<http://groups.yahoo.com/group/freecyclemodsquad/>
- <*> To unsubscribe from this group, send an email to:
freecyclemodsquad-unsubscribe@yahoogroups.com
- <*> Your use of Yahoo! Groups is subject to:
<http://docs.yahoo.com/info/terms/>

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Paula, 9/16/05 1:30 PM -0700, [Bulk] Trademark Issues

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Date: Fri, 16 Sep 2005 16:30:58 -0400 (EDT)
Subject: [Bulk] Trademark Issues
From: "Paula" <california@freecycle.org>
To: timcafc@oeyweb.com, petritim123@yahoo.com, timoey@yahoo.com

Tim,

As a volunteer representative of The Freecycle' Network you have publicly requested that members actively campaign against the organization obtaining the Trademark it has filed for. The following are quotes from your post:

"The best way to keep freecycle in the public domain is for as many people and groups as possible to continue to use the term generically.

If you feel that the term freecycle is generic, you can let the USPTO know by sending a letter to:
Commissioner Of Trademarks" (address followed)

"Yahoo listens to its customers, so if folks complain about groups being deleted for use of the term "freecycling" than members/moderators of those groups should complain to Yahoo "(email address followed)

This is contrary to the mission of this organization to keep the trademark free from external corporate use and solely open to local members of The Freecycle' Network. Therefore, I must ask that you step down as the as a moderator of the Freecycle Sunnyvale list. I would appreciate your cooperation as soon as possible and confirming that you have done so.

Sincerely,
Paula

Be kind to each other.
www.freecycle.org

Freecycle' and the Freecycle' logo are trademarks of The Freecycle' Network in the United States and/or other countries.